

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1189 - SB 1180

March 6, 2017

SUMMARY OF BILL: Enacts the *Tennessee Infants Protection Act*. Prohibits any abortion being performed during the viability of a fetus. Allows for an affirmative defense to any criminal prosecution if the abortion was performed or induced, or attempted to be performed or induced, by a licensed physician and the physician determined, in the physician's good faith medical judgment, based upon the facts known to the physician at the time that the unborn child was not viable or the abortion was necessary to prevent the death of the pregnant woman or to prevent serious risk of substantial and irreversible impairment of a major bodily function of the pregnant women. Prohibits an abortion if the risk of death or irreversible impairment is performed on the basis of a claim or diagnosis that the woman will engage in conduct which would result in her death or substantial and irreversible impairment of a major bodily function or for any reason relating to her mental health. Requires a physician to make a viability determination, except in a medical emergency. Creates certain conditions the physician must comply with for the affirmative defense to apply. Creates a rebuttable presumption that an unborn child of at least 24-weeks gestational age is viable. Creates a Class C felony for violation of the proposed legislation and requires the license of the physician to be revoked. Prohibits a physician from performing or inducing, or attempting to perform or induce, an abortion upon a pregnant woman after the beginning of the 20th week of pregnancy unless, prior to the performance or inducement of the abortion, or the attempt to perform or induce the abortion, the physician determines that the unborn child is not viable, and the physician makes that determination after performing a medical examination of the pregnant woman and after assessing gestational age, weight, bi-parietal diameter, or other factors that a reasonable physician would consider in making a determination as to whether an unborn child is viable.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$88,100/Incarceration*

Assumptions:

- Based on information provided by the Department of Finance and Administration, Division of Benefits Administration, the proposed legislation will not significantly impact any managed-care plans for employees of state government, local government or local education agencies.

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- Based on information provided by the Bureau of TennCare, the proposed legislation will not affect any policies or procedures; therefore, any fiscal impact is estimated to be not significant.
- Based on information provided by the Department of Health, the proposed legislation will have minimal impact on the Office of Vital Records; therefore, any cost can be accommodated within existing resources without an increased appropriation or reduced reversion.
- Based on information provided by the Administrative Office of the Courts, any increase in caseload to trial courts can be accommodated within existing resources without an increased appropriation or reduced reversion.
- It is assumed that the proposed legislation will result in one additional class C felony admission per year.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will not affect the fiscal impact of this legislation.
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2017 is \$68.75.
- The average time served for a class C felony is 3.51 years (1,282.03 days).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender serving 3.51 years (1,282.03 days) at a cost of \$88,140 (\$68.75 x 1,282.03 days).

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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